

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

PATRICK LECLAIRE	§	
	§	
Plaintiff	§	
	§	
v.	§	
	§	No. SA-11-CA-619
BUDDY STORBECK'S DIESEL	§	
SERVICE, INC. d/b/a	§	
UD Trucks of San Antonio	§	
	§	
Defendant	§	
	§	

ORDER REGARDING PLAINTIFF'S MOTION FOR RECONSIDERATION

On June 20, 2012, the Court granted the Defendant's motion for leave to file a second motion for summary judgment (Docket No. 47). The Plaintiff has moved for reconsideration of that Order (Docket No. 48).

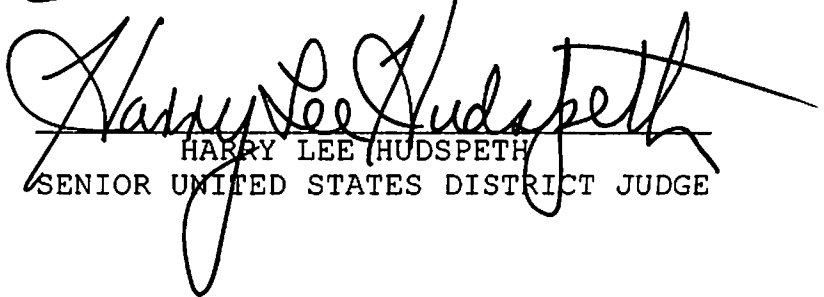
According to the Defendant's motion (Docket No. 48), the new summary judgment motion he proposes to file will raise only one simple and discrete issue, to wit: whether Plaintiff LeClaire was exempt from the usual requirements of 29 U.S.C. § 207(a) by virtue of the fact that he received a rate of pay in excess of one and one-half times the minimum hourly rate applicable to him, and that more than half of his compensation was in the form of commissions. **See** 29 U.S.C. § 207(i). Defense counsel does not explain why this contention was omitted from his first motion for summary judgment. Nevertheless the Court has found that a second motion for summary

judgment might serve to narrow the issues for trial and to expedite disposition of the case. Furthermore, allowing the filing of a second motion for summary judgment was conditioned upon its prompt filing. The Order (Docket No. 47) requires that the new motion be filed within seven days.

The contention of Plaintiff's counsel that the preparation of a response to the new motion for summary judgment will require hours, if not days, of work is premature and speculative. Since no one has seen the proposed motion, the time which might be required for a response cannot be determined. Should counsel for the Plaintiff require more time than usual to respond due to previously scheduled conflicts, the Court would be amenable to granting additional time.

IT IS THEREFORE ORDERED that the Plaintiff's motion for reconsideration (Docket No. 48) be, and it is hereby, DENIED.

SIGNED AND ENTERED this 20th day of June, 2012.


HARRY LEE HUDSPETH
SENIOR UNITED STATES DISTRICT JUDGE